

United States District Court District of Massachusetts

UNITED STATES OF AMERICA,

v.

CRIMINAL NO. 2005-100018-RCL

ROBERT D. ARNOLD,
Defendant.

ORDER OF DETENTION PENDING TRIAL

COLLINGS, U.S.M.J.

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing has concluded that the following facts require the detention of the defendant pending trial in the

Part I - Findings of Fact

- X (1) The defendant is charged with an offense described in 18 U.S.C. §3142(f)(1) and has been convicted of a (federal offense)(state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed) that is
- X a crime of violence as defined in 18 U.S.C. §3156(a)(4).
 - an offense for which the maximum sentence is life imprisonment or death.
 - an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act, the Controlled Substances Export Act, or the Maritime Drug Enforcement Act.
 - a felony that was committed after the defendant had been convicted of prior federal offenses described in 18 U.S.C. §3142(f)(1)(A)-(C), or comparable state or local offenses.
- X (2) The offense described in finding (1) was committed while the defendant was out on bail pending trial for a federal, state or local offense.
- X (3) A period of not more than five years has elapsed since the (date of conviction or release of defendant from imprisonment) for the offense described in finding (1).
- X (4) Findings Nos (1), (2) and (3) establish a rebuttable presumption that no combination of conditions will reasonably assure the safety of (an)other persons.

community. I further find that the defendant has not rebutted this presumption.

Alternative Findings (A)

- ____ (1) There is probable cause to believe that the defendant has committed an offense for which a maximum term of imprisonment of ten years or more is provided by the Controlled Substances Act under 18 U.S.C. §924(c).
- ____ (2) The defendant has not rebutted the presumption established by finding 1 that the defendant or combination of conditions will reasonably assure the safety of the community.

Alternative Findings (B)

- ____ (1) There is a serious risk that the defendant will not appear.
- ____ (2) There is a serious risk that the defendant will endanger the safety of another person or the community if released.

Part II - Written Statement of Reasons for Detention

The only condition of release suggested by defendant's counsel was that the defendant be placed in an in-patient drug facility. Based on the fact that the defendant has been in such programs in the past and has not been able to live a drug-free life and the very serious prior record of crimes of violence, I find that placing the defendant in an in-patient drug facility would not be a condition of release which would reasonably assure the safety of other persons and the community.

I find that there are no conditions of release or combination of conditions of release which will reasonably assure the safety of other persons and the community. I find that the facts which form the basis for this conclusion have been proven by clear and convincing evidence.

Part III - Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

/s/ Robert B. Collings

ROBERT B. COLLINGS
United States Magistrate Judge

Dated: February 7, 2005.